

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE MAGNAVOX COMPANY, a)
Corporation, and SANDERS)
ASSOCIATES, INC., a)
Corporation,)
Plaintiffs,)
v.) Civil Action
BALLY MANUFACTURING) No. 74 C 1030
CORPORATION, a Corporation,)
CHICAGO DYNAMIC INDUSTRIES,)
INC., a Corporation,)
EMPIRE DISTRIBUTING, INC.,)
a Corporation, and MIDWAY MFG.)
CO., a Corporation,)
Defendants.)

SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT

1. This action arises under the patent laws of the United States, Title 35, United States Code. Jurisdiction of this Court is based on Title 28, United States Code, Section 1338(a).

2. Plaintiff The Magnavox Company is a corporation organized and existing under the laws of the State of Delaware.

3. Plaintiff Sanders Associates, Inc. is a corporation organized and existing under the laws of the State of Delaware.

4. Defendant Bally Manufacturing Corporation is a corporation organized and existing under the laws of the State of Delaware.

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5. Defendant Chicago Dynamic Industries, Inc. is a corporation organized and existing under the laws of the State of Illinois.

6. Defendant Empire Distributing, Inc. is a corporation organized and existing under the laws of the State of Illinois.

7. Defendant Midway Mfg. Co. is a corporation organized and existing under the laws of the State of Illinois.

8. On April 25, 1972, United States Letters Patent 3,659,284 issued to plaintiff Sanders Associates, Inc. as assignee of William T. Rusch for an invention in TELEVISION GAMING APPARATUS and since that date, and until August 5, 1975, plaintiff Sanders Associates, Inc. was the owner of that Letters Patent 3,659,284.

9. On August 5, 1975, United States Letters Patent 3,659,284 was reissued as United States Letters Patent Re. 28,507 to plaintiff Sanders Associates, Inc. and since that date plaintiff Sanders Associates, Inc. has been and still is the owner of that Letters Patent Re. 28,507.

10. On April 25, 1972, United States Letters Patent 3,659,285 issued to plaintiff Sanders Associates, Inc. as assignee of Ralph H. Baer, William T. Rusch, and William L. Harrison for an invention in TELEVISION GAMING APPARATUS AND METHOD and since that date, and until October 28, 1975, plaintiff Sanders Associates, Inc. was the owner of that Letters Patent 3,659,285.

11. On October 28, 1975, United States Letters Patent 3,659,285 was reissued as United States Letters Patent Re. 28,598 to plaintiff Sanders Associates, Inc. and since that date plaintiff Sanders Associates, Inc. has been and still is the owner of that Letters Patent Re. 28,598.

12. By an agreement entered into between plaintiff Sanders Associates, Inc. and plaintiff The Magnavox Company effective January 27, 1972, plaintiff The Magnavox Company has been and still is the exclusive licensee under said United States Letters Patent 3,659,284, 3,659,285, Re. 28,507, and Re. 28,598, with the right to bring actions for infringement of said Letters Patent.

13. Defendants Chicago Dynamic Industries, Inc. and Midway Mfg. Co. have been for a long time past and still are separately and independently infringing said Letters Patent 3,659,284, 3,659,285, Re. 28,507, and Re. 28,598 by making, using, and selling gaming apparatus embodying the subject matters of the claims of said Letters Patent and will continue to do so unless enjoined by this Court.

14. Defendants Bally Manufacturing Corporation, Empire Distributing, Inc., and Midway Mfg. Co. have been for a long time past and still are jointly infringing said Letters Patent 3,659,284, 3,659,285, Re. 28,507, and Re. 28,598 by making, using, and selling gaming apparatus embodying the subject matters of the claims of said Letters Patent and will continue to do so unless enjoined by this Court.

15. Defendants Bally Manufacturing Corporation and Empire Distributing, Inc. have been for a long time past and still are jointly infringing said Letters Patent 3,659,284, 3,659,285, Re. 28,507, and Re. 28,598 by selling gaming apparatus manufactured by others of the defendants herein as well as other parties and embodying the subject matters of the claims of said Letters Patent and will continue to do so unless enjoined by this Court.

17. Each of defendant's infringements of said Letters Patent 3,659,284, 3,659,285, Re. 28,507, and Re. 28,598 were and are willful and with full knowledge of said Letters Patent.

18. Plaintiff The Magnavox Company has placed the notice prescribed at Title 35, United States Code, Section 287(a) on all gaming apparatus manufacturing and sold by it under said Letters Patent and has given written notice to defendants of said infringements of said Letters Patent.

WHEREFORE, plaintiff demands a preliminary and final injunction against continued infringement of said Letters Patent Re. 28,507 and Re. 28,598 by each of defendants, an accounting of the damages to plaintiff and the profits to defendants caused by said infringements of Letters Patent 3,659,284, 3,659,285, Re. 28,507, and Re. 28,598, an assessment of three times the damages and profits so determined, an award of reasonable attorney fees, and an assessment of interest and costs

against defendants.


Theodore W. Anderson

Theodore W. Anderson
77 West Washington Street
Chicago, Illinois 60602

(312) 346-1200

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Of Counsel:

Thomas A. Briody
The Magnavox Company
1700 Magnavox Way
Fort Wayne, Indiana 46804

Louis Etlinger
Sanders Associates, Inc.
Daniel Webster Highway, South
Nashua, New Hampshire 03060

James T. Williams
Neuman, Williams, Anderson & Olson
77 West Washington Street
Chicago, Illinois 60602